



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 109<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 152

WASHINGTON, TUESDAY, MAY 9, 2006

No. 55

## Senate

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, our Father, the way, the truth, and the life, lead us to Your truth. Keep us from twisting the truth to conceal our mistakes. Keep us from evading the truth we do not wish to see. Keep us from silencing the truth because we are afraid of people.

Infuse Your Senators today with a passion for truth that will save them from false words or cowardly silence.

Teach us all to speak Your truth in love.

We pray in Your holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, in just a few minutes, at 10 a.m., the Senate will proceed to the vote on invoking cloture on the motion to proceed to the small business health plan bill. Chairman ENZI is here, and there will be a few minutes for closing remarks before

that vote. If cloture is invoked, I hope we will be able to proceed to the bill today and begin debate on the substance of the legislation.

Today, the two party policy luncheons will occur between the hours of 12:30 and 2:15 p.m. Once we determine when we will be able to proceed to the small business health plan bill, we will then set up a recess to accommodate those two meetings.

### HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY ACT OF 2006—MOTION TO PROCEED

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration on the motion to proceed on S. 1955.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 417, a bill (S. 1955) to amend title I of the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace, and for other purposes.

The PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. shall be equally divided between the Senator from Wyoming, Mr. ENZI, and the Senator from Massachusetts, Mr. KENNEDY, or his designee.

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I am here this morning to ask this body to support the motion to proceed to the debate. All we are voting on is whether we are going to get to debate, not whether we are going to have health insurance for small businesses. But if this vote does not get 60 votes, we will not have the opportunity in this Congress to see whether we can help out small businesses across this country.

The bill before us will provide for small businesses to be able to join across State lines to negotiate against the insurance companies with enough

power to make a difference. This is something which the small businesses have been asking for for almost 15 years. In the last 12 years, it has passed the House eight times but has never even gotten out of committee in the Senate until this year. The reason it got out of committee is because we have drastically changed the bill. We are not talking about the old association health plans we had in the past. This is one which has had some modifications that have been helped with insurance companies and State insurance commissioners. It still keeps the power of oversight and consumer protection in the hands of the State insurance commissioners, but it does allow the ability to unify things so that we can get across State lines.

How is it doing? Well, the Washington Post says it went too far. The Wall Street Journal says it didn't go far enough. So maybe we are somewhere right there in the middle. But unless we get to debate this issue, we will never know until we can get through the motion to proceed and possibly 30 hours of still debating whether we are going to debate before we ever get to a motion. So I am hoping that this morning we can pass this motion to proceed.

I can't believe that any Senator here hasn't heard from enough small businessmen that he wouldn't allow us to proceed to the debate. I am hoping that following that motion to proceed to debate, we can limit the hours of debating that particular motion and get on with the substance of trying to perfect a bill.

In my 9 years in the Senate, I have never seen a perfect bill. I am not saying this is a perfect bill. I am saying it is one that has come out of compromise, long discussions, and has moved away from the point of huge objection on the Senate side to less objection on the Senate side. It is a bill that can be worked out, can be passed, and can have a significant difference for

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S4163

small companies across the United States.

Will it make a difference? There are several surveys that say it will make a difference. I am saying that from the amount of advertising which was done before we even had the motion to proceed, there must be a lot of big bucks in savings in this thing to have the kind of opposition we have already had on it. But we will never know unless we get the right to debate. So I am asking my colleagues to vote aye on the motion to proceed so that we can proceed to a debate, sometime within the next 30 hours, hopefully.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask the Chair to let me know when I have 1 minute remaining.

Mr. President, this should be a historic week. The Senate has the opportunity at last to have a debate on the basic questions of health care. Senator ENZI has put forward a proposal that deserves debate and the opportunity for amendment, and I commend him for his diligence in bringing forward his proposal. But after careful study and debate, I believe the Senate will conclude that the course laid out in this proposal is the wrong one for health care.

The legislation will make health care coverage less affordable and less accessible for millions of Americans. It will raise premiums for Americans when they are older or when they fall ill. It will mean the end of laws to guarantee coverage for cancer, for diabetes, for mental health parity, and other essential services. It will undermine the laws that protect consumers from fraud and abuse, and it will give no real help to the self-employed.

We have a better approach. The proposal offered by Senators DURBIN and LINCOLN will allow small businesses to band together to get the same low rates offered to larger employers. It provides real help for small businesses with the high costs of health care through tax credits and reinsurance programs to defray the cost of the most expensive claims.

When our debate concludes, I believe the Senate will agree with the over 200 organizations that have written letters of opposition to this legislation. These organizations represent patients with diabetes and cancer and mental health needs. They represent older Americans, workers, health care professionals, small businesses, and Americans in all walks of life. They represent the over 15,000 Americans who have called the Senate to ask this body to oppose legislation that will take a step backward from our commitment to quality health care, and they represent the millions more who will be harmed if we do not reject the legislation before us.

We have heard from Governors, insurance commissioners, and attorneys

general from Maine to Hawaii and from Florida to Alaska, and all of them—all of them—have urged the Senate to reject this bill.

I urge my colleagues to oppose the current legislation, but I hope they will vote to proceed to consideration of this bill. The Senate has been denied the chance to take action on major health priorities for too long. Next week, seniors will be forced to pay a steep penalty if they are unable to navigate through the tangle of confusing Medicare plans and options. The Senate ought to vote on Senator NELSON's proposal to let seniors make their choice without the threat of heavy fines if they do not meet this arbitrary deadline.

The Republican Medicare law also includes a provision so contrary to commonsense that people hardly believe you when you tell them it was included. The legislation makes it illegal for Medicare to bargain for discounts on drugs for seniors. We have a proposal to end that shameful prohibition, and we should vote on that proposal.

On Medicaid, we should take action to end the cruel cuts imposed on the poorest of our fellow citizens by the Deficit Reduction Act, which paid for tax cuts for the wealthy through health cuts for the poor.

We have been promised and promised that the Senate would vote on drug importation, but the vote never comes. Senator DORGAN, Senator SNOWE, Senator MCCAIN, and I have a proposal that will allow safe importation of lower cost medicines from Canada and elsewhere. Surely, Health Week is the time for a vote.

Before the week is out, the Senate should see that the promise of stem cell research—stem cell research—is no longer denied to the millions of patients and their families who look on with anger and bewilderment as the bill passed by the House languishes for month after month after month in the Senate. And we have failed year in and year out to fulfill the promise of this century of the life sciences by making quality care a right for every American. Let us at long last take action to extend quality care to every American.

So I say to my colleagues: Vote for cloture on this motion. Vote for a health care debate. Vote for a chance to go on record with your answer to these important questions on Medicare, on Medicaid, on stem cell research, on drug importation, on coverage, and on many other health priorities. Let's have a debate, and let's let the Senate decide where it stands.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

Mr. ENZI. Mr. President, I thank the Senator from Massachusetts for his encouragement on his side of the aisle to vote for the motion to proceed. I think that will get us into a debate that will make a difference for the working people of America, the people up the street

and across the street, the working families that are a part of small business.

Today, there are 45 million people in the United States who are without health insurance in this country. Twenty-two million people own or work for small businesses or live in families that depend on small business wages, and another 5 million are unemployed. Those are the 27 million people we are talking about whom this health care bill will be making decisions for in the next few days.

It is long past time for Congress to take some action. The American people aren't going to accept excuses any longer. It has been a long time getting to this debate. I am pleased that it sounds like we will be able to have it. I welcome any amendments that are alternate approaches or improvements to this bill. I know what the complaints are out there, I know what the counters to those are, and I know what the concerns are. It is very important that when we walk away from this week, we walk away with a plan which will help the small business people of the United States, the ones working for small businesses, the ones owning them, and their families who need the help.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time? Each side has 1 minute remaining.

Mr. KENNEDY. Mr. President, I will mention at this time some of the organizations. We will have a chance during the course of the debate to get into the reasons why. The American Academy of Pediatrics; the American Cancer Society; the Diabetes Association; the Nurses Association; Families USA; the lists of Governors—and I will include those—more than probably 15, 18 Governors; the attorneys general. I think there are probably close to 40 of the attorneys general representing States North, South, East, and West who have opposed this bill. The Insurance Commissioners of the States—a whole list of those. At the appropriate time, I will include those in the RECORD.

I hope our colleagues will put their ear to the ground and find out what people are saying back home, what your cancer society, diabetes, pediatric nurses and doctors are saying about this, what the attorneys general are saying about this, and what those in the medical profession are saying about this. We think we have a better way to help small business, and during the course of the debate, we will show how that can be done.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Wyoming has 56 seconds.

Mr. ENZI. Mr. President, I thank the Senator from Massachusetts for listing those 200 organizations. I have never done a count on them, and I am not familiar with quite that many; I am only familiar with about 40 that have expressed some concern that I suspect will be taken care of in amendment if we can get to the amendment process.

I would like to mention that there are over 200 business organizations that are looking forward to being able to unite these people across State lines to get lower rates for their people. There are actually 80 million employees in those businesses, in those organizations. The realtors are going to be here with 9,000 people next week, expecting that we will have already taken action. The National Federation of Independent Businesses is another big one that is supporting this. I could mention a lot more. Even some of the associations that have concerns about it want to be sure that this bill passes so their employees can be covered.

I yield the floor.

#### CLOTURE MOTION

The PRESIDENT pro tempore. By unanimous consent, pursuant to rule XXII, the chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the standing rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 417, S. 1955, Health Insurance Marketplace Modernization and Affordability Act of 2005.

Bill Frist, Johnny Isakson, Sam Brownback, John Thune, Thad Cochran, Wayne Allard, John Ensign, Richard Shelby, Larry Craig, Ted Stevens, John McCain, Lamar Alexander, Norm Coleman, Judd Gregg, Pat Roberts, Craig Thomas, Richard Burr.

The PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 1955, the Health Insurance Marketplace Modernization and Affordability Act of 2005, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

I also announce that the Senator from North Dakota (Mr. CONRAD) is absent due to illness in family.

The PRESIDING OFFICER (Mr. DEMINT). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 96, nays 2, as follows:

[Rollcall Vote No. 117 Leg.]

#### YEAS—96

Akaka	Cantwell	Dorgan
Alexander	Carper	Durbin
Allard	Chafee	Ensign
Allen	Chambliss	Enzi
Baucus	Clinton	Feingold
Bayh	Cochran	Feinstein
Bennett	Coleman	Frist
Biden	Collins	Graham
Bingaman	Cornyn	Grassley
Bond	Craig	Gregg
Boxer	Crapo	Hagel
Brownback	Dayton	Harkin
Bunning	DeWine	Hatch
Burns	Dodd	Hutchison
Burr	Dole	Inhofe
Byrd	Domenici	Inouye

Isakson	McCain	Schumer
Jeffords	McConnell	Sessions
Johnson	Menendez	Shelby
Kennedy	Mikulski	Smith
Kerry	Murkowski	Snowe
Kohl	Murray	Specter
Kyl	Nelson (FL)	Stabenow
Landrieu	Nelson (NE)	Stevens
Lautenberg	Obama	Sununu
Leahy	Pryor	Talent
Levin	Reed	Thomas
Lieberman	Reid	Thune
Lincoln	Roberts	Vitter
Lott	Salazar	Voinovich
Lugar	Santorum	Warner
Martinez	Sarbanes	Wyden

#### NAYS—2

Coburn

DeMint

#### NOT VOTING—2

Conrad

Rockefeller

The PRESIDING OFFICER. On this vote, the yeas are 96, the nays are 2. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. ENZI. Mr. President, I ask unanimous consent that the postcloture debate on the motion to proceed be divided as follows: From now until 11 a.m. will be under majority control; from 11 to 11:30 will be under minority control; 11:30 to 12 will be under majority control; and noon to 12:30 will be under minority control.

The Senate will stand in recess from 12:30 to 2:15 p.m. I ask that time count under the provisions of rule XXII. The time from 2:15 to 2:30 will be equally divided between the majority and minority; from 2:30 to 3 we begin majority control, with the next 30 minutes under minority control, and each 30 minutes rotating in this format until the hour of 5:30 p.m.

Before the Chair rules, we would like to make out a time certain to begin consideration of the bill. In the interim, this unanimous consent allows the Senate to have an orderly debate for speakers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I thank virtually all Members in the Senate for their help in getting the motion to proceed. That will allow us to do 30 more hours of debate before we actually get into the substance of making any changes in the bill. I hope we can work out a unanimous consent agreement that will shorten that time and get us into the meat of the debate. I will push for some rapid consideration of some amendments so we can get this resolved for the small businessmen of this country in short order.

I will address some of the charges made against this bill. I listened yesterday and the day before to the minority leader's speech to the Senate on Friday. I was surprised by several of the statements he made regarding this bill. If I had not already known that he was talking about S. 1955, I would never have guessed it.

The first comment the minority leader made was that our bill threatens the coverage of those who have insurance now and does nothing to extend coverage to those who need it. I make two

points in response to that. First, it seems to me the status quo is what is truly threatening the coverage of those who are insured now. Prices are going up dramatically. Small business has no leverage. No one can afford more of the same or more excuses from Washington.

Blocking an honest debate on this bill is a vote for more of the same. It is a vote for health insurance costs continuing to rise dramatically, for more small businesses dropping coverage for their employees, and for more uninsured American families. Year after year of more of the same is what is truly threatening America's health care security.

Second, this bill will indeed extend coverage to more people who need health insurance. If you do not believe me, listen to our nonpartisan CBO. The CBO says this bill will reduce health insurance costs for three out of every four small businesses. The CBO also said the bill will extend private health coverage insurance to 750,000 more people than have it today.

Is that a comprehensive solution to the problems of health care and the uninsured? Of course not. I understand this is not a comprehensive solution to the problem of health care costs and the uninsured, but it is definitely a step in the right direction and a building block for the future.

I have more comments about statements made about the bill in ads and in editorials, but at this point, I release the remainder of our time until 11 o'clock to the Senator from Missouri who has been working on this in the House for years in a totally different version but has brought his expertise, talent, and knowledge to this side of the building. He has been a strong advocate for doing something for small businesses. He has been extremely cooperative in finding ways to do things so we can have something for small businesses.

I relinquish the floor to the Senator from Missouri, Mr. TALENT.

Mr. TALENT. Mr. President, I thank the Senator from Wyoming for his kind words and his great work and his comments regarding my involvement with the idea of small business health plans. What he said is true regarding my involvement. I am not the father of this idea, but I think I probably "midwived" it years and years ago when I served in the House in 1997. It has passed the House on a regular basis ever since then and, as the chairman knows, on a very strong bipartisan basis because the idea of small business health plans is fully within the mainstream of both parties' thinking which is one of the very powerful arguments in favor of it.

The No. 1 issue facing small business today as a whole is not energy costs, although certainly they are too high. It is not immigration, although that is definitely an issue. It is not taxes, although we all hear our share of complaints from small business people about that. It is the rising cost of health insurance and the number of

people who do not have health insurance. That is largely a small business problem.

There are 45.8 million Americans who are uninsured today, 4 million more than 2001. That number has grown every year, in years of prosperity or recession. The vast majority of those uninsured people are working people. And most of those working people are people who work for a small business. They work for a small business, they own a small business, or they are dependents of someone who works for or who owns a small business.

The smaller the business is, the worse the problem gets. Only 40 percent of businesses with 3 to 6 employees today have health insurance for their employees and that number is down from 52 percent in 2004 and 58 percent in 2002.

We are entitled to ask ourselves, Why? I have heard a lot of explanations over the years. Why does small business have a problem providing health insurance for its employees whereas bigger companies don't? You would be surprised at the explanations offered. I had one witness from the Government Accountability Office tell me that he did not think employees of small business wanted health insurance. I have other people speculate that small employers did not care as much about their people who work for them as big companies do. That certainly will come as a revelation to Senators that big corporate employers care more about their employees than the small business owners and managers do—the small business people who work on a daily basis with their employees, the small business people who would like to get health insurance themselves from the small business if they could figure out a way for the small business to provide that health care to the employees.

It is not a question of the small business people caring enough. The problem is, the cost and complexity of getting health insurance for a small business is greater than it is for a big business. It will surprise no one who has common sense that it is harder to insure a small market, a small group, than a big group. The cost of insurance is less if you can spread it across a bigger pool of people. This has been studied extensively, and that very common-sense conclusion has been validated.

I will go over some of the figures for the Senate. Health insurance premiums for small business people increased by 10.9 percent in 2001, 12.9 in 2002, 13.9 in 2003, 11.2 percent in 2004, and 9.2 percent in 2005.

The smallest firms have always seen bigger increases in premiums. Why? Well, the SBA's Office of Advocacy has found that small businesses typically spend much more than large businesses for the same benefits. Not that the benefit packages are different, not that small businesses are trying to buy more expensive benefit packages; they have to spend more to get the same

benefits because the administrative costs of some benefits are almost 14 times more for the smallest firms than for their largest counterparts.

According to the Government Accountability Office, from 20 to 25 percent of small employer premiums typically go toward expenses other than benefits compared with about 10 percent for large employers. The small business people are paying more to get the same benefits because they have higher overhead costs and higher administrative costs. They do not enjoy the same economies of scale the big companies enjoy.

The American people know this. I have a lot of stories from Missouri I could tell. I do not have the time. But the American people are living with this every day.

Jim Henderson is the president of Dynamic Sales in St. Louis. It is a third-generation family business that sells welding accessories and other products. It is a small business. He has eight employees. Health insurance has been a problem for 16 years for Jim. He spoke with his insurance agent, who suggested raising the deductible to keep the premium the same, so he has raised the deductible. It has gone from zero to a \$1,000 deductible in the last 10 years. So despite that huge increase in the deductible, to this day, he experiences huge increases each time he tries to renew the policy. When he asked his carrier about the enormous increases and why they are raising his premiums so much, the carrier responded: Well, because we can.

Tammy Herbert is a certified optician from Farmington, MO. She is a cancer survivor. She had breast cancer. She is a single, working mom. She is an inspiration when you talk to her. She told me because of her history of breast cancer, 2 years ago her employer's insurer canceled all the individual policies for her and her colleagues.

People talk about small business health plans resulting in cherry-picking. They ought to see what is happening today in the small group market.

Renee Kerckhoff is the second generation owner of Rudroff Heating & Air Conditioning, in Belton, MO. She can only afford to cover a small portion of employee insurance premiums—about \$150 a person per month. As a result, and despite her best efforts, her employees are having to drop their health insurance because they cannot afford the copays and the premiums they have to make and are going on public assistance.

These stories are happening all over Missouri and all over the country. Sometimes I will get with a group of people and ask them: Look, if you had a history of medical illness, and you had the choice of working for a big company or a small company, and all you cared about was health insurance, and all you knew about the companies was that one was a big Fortune 500 company and the other was a small

company, which one would you work for? I have never had anybody raise their hand and say: I would work for the small company because the assumption is I am going to get better health insurance from the small business.

They know, because it is a matter of common sense, insuring a large pool of people is more efficient, more economical and, therefore, less expensive than insuring a small group of people.

Just look at the people who are insured in the country. Virtually everybody who has health insurance, except for the employees of small business people, have it as part of a big national pool. It may be public, it may be private, but it is a big national pool. They work for a big company. They are in a labor union. They are on Medicare or Medicaid or they are a Federal employee or a retired Federal employee or in the VA.

All these other organizations could insure on a small group basis if they wanted to. The Federal Government could go out and take each section of Federal employees in different cities and divide them all up and insure them in a small group. There is no law against that. Microsoft could do the same thing. Hallmark in Missouri could. Anheuser-Busch in Missouri could. They could insure each little section if they wanted to. Well, they do not because it does not make any sense. It would cost them more money to do it. Yet small business people have to do that every day.

So what is the answer? Well, there is a simple answer that is out there. Everybody tries to make it more complicated than it is, but it is simple: Empower the small business people to do what the big business people can already do. Allow them to pool together through their trade associations and get health insurance as part of a big, national, voluntary, efficient, economical pool.

I give an example: I think it is the best way to describe it. Take a restaurant owner such as my brother, who owns a little restaurant. It is kind of a tavern restaurant. It is a great place. It has great chicken sandwiches. And I highly recommend it to you if you get to Missouri. He does not have health insurance for his people. It is too expensive. It is complex and foreboding for him. He and my sister-in-law run the business. They do not want to have to wrestle with big insurance companies. They are afraid if something goes wrong, they could get sued. He would like to have health insurance. Then he could get it through the business, too.

Now, what if the National Restaurant Association could contract with big insurance companies? They could be his employee benefits section, just like big companies have an employee benefits section. By joining the National Restaurant Association, he automatically would have the right to join the big pool. They would send him the papers. They would show him the options he

has, and he could decide how much he wants to pay. He could let his employees pay the rest and join the pool. He could have health insurance as part of a big pool. It would be must-offer, must-carry. They would have to let him join the National Restaurant Association and would have to offer the health insurance to him.

When I chaired the Small Business Committee in the House, we studied this issue. And I have seen a lot of other studies since then. The best estimates I saw were that it would reduce premiums for small employers by 10 to 20 percent; a recent study came out and said 12 percent. There would be a million fewer people uninsured.

It costs the taxpayers nothing. It is not a Government program. It is empowering small business people to do what big business people already can do. I think the impact would be much greater than the studies have shown because right now the psychology of health insurance, if you are a small business, is so negative. I think you would see whole segments of the economy, which traditionally have not provided health insurance to their employees, begin to provide health insurance. And the restaurant business is one of them. It is one of the reasons the National Restaurant Association is so strongly in favor of this concept.

Now I have talked about this for almost 10 years. I lay it out for people, and they say to me: Well, who would oppose this? I actually get that question a lot: Who is opposed to it? And that is a good question. It is fully within the mainstream of both parties' philosophy. It is empowering the little guy, just like farm co-ops. It passes the House with a strong, bipartisan majority every year. And why shouldn't it?

What is the downside of it? The downside is: It does not work as well as we hope it is going to work. Not as many people go into it as we hope and believe will go into it.

It is not as though the taxpayers are going out on a limb. So who is opposed to it? Well, nobody will be surprised to hear that the big insurance companies have opposed it, and they have come up with all sorts of excuses over the years. I am not going to go heavily into it because the chairman has worked very hard to get as much consensus as he can get. But I will say this. I think they oppose it not because they are afraid it will not work but because they believe it will work. And they control most of the small group market now. I do not have time to go through those figures. But the concentration of the small group market within the five largest carriers has grown and grown and grown. And small business health plans would be a powerful, new competitive force in that market.

The State insurance commissioners have been concerned because these small business health plans would be national and they felt the State would not be able to regulate it. In fairness, I have to say, I have never agreed with that. Remember, the big companies al-

ready operate free of State regulation. That has been the law for 30 years. And we have not had any disasters as a result of that. I do not believe anything that has happened in the last 10 years or so is proof that we can trust the big companies more than we can trust the small companies.

If I had to decide who was going to be free of State regulation, I think I would rather have the small businesses free of that. And it is not as though the market the States have regulated never has any problems. There are a lot of insurance companies that go bankrupt, and the States have to take them over.

But the good news is that the chairman has squared this circle. He has worked out an arrangement for the regulation of small business health plans where many of the State regulations and much of the State regulatory authority will still apply. I am not saying the State insurance commissioners are standing up for his bill, but I think it is safe to say that many of their objections have been ameliorated, and the chairman has made much progress on that front.

Folks who tend to be sincerely on the ideological extreme on health care issues—and maybe “extreme” is the wrong word, but they want to go one way or the other—have been lukewarm about small business health plans. There are some who wish to eliminate the employer system and take the Federal tax deduction and pass it through to individuals and let them go out and buy health insurance on their own, and there are others who want a total Government solution. And this is not any one of those things.

It is a substantial and important and meaningful but incremental change in the world we are in. It makes things better for people on a day-to-day basis who are out struggling in the real world. Maybe it is not the reform that any of the think tanks on the right or left would come up with, but it makes a difference. It will help. There is little or no downside to it. We need to help the real people who are really hurting.

Finally—and this I understand entirely; I struggled with this myself in the years I had this bill—the groups that have worked to get various disease mandates in the States have been concerned. Because if you worked hard to get a mandate so that mammogram screening is covered in your State as a matter of right, and small business health plans go into a national pool, just like the big companies, if we do not do something, they would not be subject to those State mandates.

I have made a point in talking with these groups over the years saying that, look, the big company plans, the big pools that exist out there—the labor unions, the company plans, the Federal employee plans; all those sorts of things—they usually cover all those mandated coverages, anyway, because most of them are pretty common sense.

Again, remember, if you have been sick, and you have a choice of working for a big company that is not covered

by the State mandates or a little company that is, which do you think has the better health insurance? The folks I have talked to over the years say: Well, we would go with the big company.

But I think we are going to be able to square that circle as well. Senator SNOWE is going to offer an amendment which will represent progress in this area. It will provide that if 26 States cover a mandate, that mandate applies to small business health plans, and it is protected in the States that have it. So this is progress. It is not just net progress; it is absolute progress for these various groups that have sought these protections because they are going to have, if that amendment passes—and, certainly, I am going to support it—they will have protections on the Federal level for the first time for these various coverages.

So I am very hopeful they will take a look at this. I believe with the amendment Senator SNOWE is going to offer, the concerns they had not only do not apply anymore, but actually they are going to be better off because for the first time we are going to have national pools set up under Federal law with certain basic patient protections and coverages that are guaranteed. As I said, I do not think those would be necessary because I think the pools would cover them, anyway. Most of those are pretty common sense. But we can put them in the law and reassure everybody. And I think we can make the bill better if we do that.

I see my time is running out, Mr. President.

So what is left? Why should we oppose this? I do not want to be presumptuous. I have lived with this bill for so long that maybe there are weaknesses I do not see. But this is something we can do for people. It passes the House regularly. They like it over there. It has a strong measure of bipartisanship, anyway. There is no real downside to it.

Let's debate the bill, and let's resolve that we are going to debate it with a view toward actually voting on it.

I hope nobody filibusters this bill. We can work out agreements about debate, work out agreements about amendments, and have a chance to help people. This is a problem. This is a case where people are hurting. I know politics is important here; I know this is an election year; I know all of that. But we can make a difference for real people on the ground every day who are worried about losing their health insurance or who do not have health insurance and are worried about getting sick. We ought to do it.

I thank the Senator for yielding. It looks as though my time has expired. I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Connecticut.

Mr. DODD. Mr. President, I yield myself 20 minutes. Senator KENNEDY is

not here right now, but pursuant to previous agreement, I would like to be notified when 15 minutes expires so I can conclude my remarks in the 20 minutes.

I spoke yesterday about this legislation. I want to begin by saying to my friend from Wyoming, the chairman, I have a great deal of regard for him. I have enjoyed working with him on the HELP Committee. We do a lot of work together. I have enjoyed that relationship. It is with a note of sadness that I disagree with him about this bill. We had a lengthy markup. He was very patient to listen to all of our ideas and the amendments we offered during the markup. I appreciated his willingness to do so. But as happens from time to time, we have disagreements. They are not personal. They are ideas on which we have a different point of view. Today is one of those occasions. These remarks are in no way intended to denigrate the work of the chairman of the committee or those who agree with him.

There are those of us who believe strongly that this proposal would do a lot more harm than good, that, in fact, the cure being proposed with this legislation creates far more problems than presently exist, as bad as the present situation is. We know, as a matter of fact, that over the last 3 years, the premium cost for health care has risen: 9 percent in 2005, 11 percent in 2004, 14 percent in 2003. These costs continue to rise. A family of four today is paying about \$11,000 in premiums for health care coverage. The problem is significant.

I regret in some ways—and this is not the fault of the chairman of the committee—that we are not debating in a broader sense how we might address the far more significant issue, as important as this one is, when we have 45 million fellow Americans with no health care coverage at all. I regret that we are not having a larger debate on that issue.

Secondly, I believe it is a legitimate issue to raise the issue of how small business is dealt with when it comes to insurance. In the next 2 days, we will offer a substitute to the proposal authored by the chairman of the committee, the Senator from Wyoming, that we believe will deal far more thoroughly with the legitimate issues that smaller businesses face. In fact, we redefine small business to mean businesses not with 50 employees or less but 100 employees or less, thereby covering more small businesses than would be covered by the legislation before us.

The problems are huge in the area of health care. If you do surveys of the American public and ask them to identify what are the largest concerns they have, if not the No. 1 issue—from time to time other issues may be more important to people—consistently year in and year out, people will tell you their great concern is about the fear of watching a family member or them-

selves be hit with a major health care crisis and not having the resources to pay for it, not being able to get the doctors, not being able to have the kind of care they would want for their families because they cannot afford the premiums that would provide them broader coverage, if they have any kind of coverage at all. They may not have any kind of health care. This is a major problem. We ought to be spending a lot more time addressing this issue than we are.

Having said that, let me talk about this proposal. I am deeply worried about it. It isn't just my concern. Many Governors, more than three-quarters of the attorneys general of the States which we represent, not to mention the health insurance commissioners of many States, have raised very serious concerns about this legislation. They are very worried about what this bill will do to their constituents, the States that we represent as Senators.

Let me share a letter from the Connecticut Business and Industry Association. This association represents 5,000 small employers in my State. This is not an organization that is known for its liberal tendencies. Quite the contrary, it is a very conservative business group. Listen to what my business group that represents the small businesses of my State has to say about this bill.

We believe that in Connecticut federally certified AHPs would destabilize the small business insurance marketplace, erode carefully crafted consumer protections and raise premium rates for small businesses with older workforces and those that employ people with chronic illnesses or disabilities.

The letter goes on to say:

Although the passage of AHP legislation would present us with opportunities to expand our CBIA health connection's product customer base as a regional offering, we do not believe that the proposed legislation represents a sound public policy for providing more affordable coverage or access to health care benefits. The proposed legislation does little to address the underlying causes of health care inflation, which is the most important barrier to small employers providing health care benefits.

That is a strong letter from an organization that represents 5,000 small employers in the State of Connecticut. They are worried about what this bill will do to smaller employers in my State in terms of their costs. They are deeply worried about this legislation and what it may mean.

Let me also share with my colleagues a second chart. This was a chart that was produced by Families USA, with estimates from the Agency for Health Care Research and Quality, a medical expenditure panel, and from the U.S. Census Bureau. It tells us the number of people that will be losing State regulatory protections if this bill is passed. What we are doing is shrinking the amount of benefits that can be offered. In my State, we offer a range of 30 different benefits—that was passed by my State legislature—that insurance com-

panies must cover. If you are going to do business in my State, then you have to provide coverage for these 30 areas that we believe are important.

I note this morning an editorial in the Wall Street Journal that criticizes those of us who have raised issues about this bill. They say in one paragraph:

Some provider groups are opposed for nakedly self-interest reasons since it would allow plans to bypass state regulations mandating coverage for, say, chiropractors.

Chiropractors provide some decent services to people. But with all due respect, I would suggest that it is a lot more than chiropractors who get bypassed with this legislation. It is things such as diabetes, cancer screening, infant health care, mental health care, pregnancy, Lyme disease, to mention a few. I know several of my colleagues have had family members affected by Lyme disease. My State thinks that is an important area to provide coverage. This bill would eliminate coverage for Lyme disease because this legislation would mandate that Federal law would supersede State law. Regardless of what your State thinks is important, this bill will decide what will be covered. Everything else goes. That is an overreach, in my view. As a result, the analysis of the legislation presented on this chart suggests that in the State of Alabama, 1.7 million people who would be adversely affected if this legislation is passed. In Connecticut, more than a million people would lose benefits that the State legislature requires the insurance industry to cover. In State after State, the numbers are at least in the six-figure category. In California, 12 million people would be adversely affected, Kentucky over a million people, Kansas over a million people, Illinois almost 4 million people, and the like.

I will leave this chart so my colleagues will be able to see how many people will be affected in their States, according to data collected by those who have examined what it would mean to a Federal mandate that tells every State in the country: We don't care what you have done, we don't care what benefits you think are important, this bill will tell you what kind of coverage you are going to have.

We also prohibit the States by preempting their ratings rules, which is my second point. This legislation preempts the States from having rating rules that will actually determine what the difference in cost would be between young and healthy workers and older, sicker workers, to make sure they are not going to price the product so beyond the reach of an older, less healthy person that it would be unaffordable. It is de facto exclusion if you allow the insurance industry to set that price by preempting the States from determining whether there ought to be a cap on how much an insurance company can charge. By limiting benefits and by preempting the States from determining rates and holding them down,

we make it very difficult for literally millions of people to be positively affected by this legislation.

Those are the two major concerns we have. There are other areas that we will certainly raise. I mentioned earlier in my State, more than a million people will lose access to cancer screening, well childcare, diabetes supplies, alcoholism treatment, mental health care, the treatment for Lyme disease, to mention some. The list goes on with my State.

In addition to seeing their benefits disappear, millions of Americans will see their health insurance premiums skyrocket as well. This bill preempts State laws that currently protect older workers, those with serious illnesses such as diabetes, cancer, and heart disease, even expectant mothers, from seeing their premiums increase. This bill will allow the insurance industry to charge people more based on the fact that they are sick or pregnant or simply older.

I have many insurance companies in my State, as my colleagues know, that do a wonderful job in many ways. But don't have any illusions about this. They are going to be offering as few benefits as they can get away with and charge as much as they can. That is what they are in business for. This is not the Vista Program or AmeriCorps. These are private companies. If we give them a green light to limit the benefits you can provide and take the caps off what they can charge, then, obviously, they are going to take advantage of it. I am greatly concerned, as the major business organization in my State warns. When the Connecticut Business and Industry Association says this bill would hurt the businesses in my State, we ought to take note of it. This organization has a strong record of protecting the interests of smaller businesses.

It doesn't take an expert to predict what will happen. Insurance companies are going to offer plans with minimal or no benefits, hoping to attract young and healthy workers. Older, sicker people are going to be left without a plan that meets their needs. Every analysis of this bill reaches the same conclusion.

Listen to what the Congressional Budget Office says. They found the bill "would tend to reduce health insurance premiums for small firms with workers who have relatively low expected costs for health care and increase premiums for firms with workers who have relatively high expected costs."

In other words, instead of attacking the real problem, the rising cost of health care, this legislation would simply shift costs to small businesses with older and less well workers.

In fact, another study commissioned by the supporters of this legislation concluded this bill "is not going to address the underlying causes of high health insurance premiums, which are high health care costs."

Again, Governors, State attorneys general, the State insurance commis-

sioners have all reached the same conclusion, as have an enormous number of groups representing health care providers and patients. All of them say the same thing. They all can't be wrong. When your Governors, attorneys general of the States, insurance commissioners, not to mention almost every single health care group in the country warns about the passage of this bill, then we ought to take note of it. When you hear that you will have literally millions of people losing benefits passed by State legislative bodies that require the insurance industry to cover them, then we ought to take note of that as well.

I know my colleagues will be offering amendments to allow lifesaving stem cell research to go forward, to strengthen Medicaid, reduce prescription drug prices, and ensure access to mental health care. I look forward to having an opportunity to debate those amendments, many of which I will be supporting. We should also consider an amendment to extend the Medicare prescription drug plan enrollment deadline which is causing a huge problem. These are the kinds of issues that ought to be part of our debate today. Medicare beneficiaries have only until this coming Monday, May 15, to enroll in a prescription drug plan, if they are to avoid financial penalty. Why don't we take that as an amendment and extend that time to allow people to come forward. As we are all aware, for many of the Nation's 41 million Medicare beneficiaries, the new prescription drug plan offers more confusion than assistance and, frankly, extending that date would make sense.

I intend to offer an amendment to protect newborns and children from the damage inflicted by this legislation. Right now, 25 states have enacted mandates requiring insurers to provide benefits to the children of their enrollee; 31 States require insurers to cover the cost of childhood immunization.

I am going to ask my colleagues to support language that would see to it that newborns and children are protected in every State, instead of allowing the insurance industry to pick plans that would exclude child immunization and well-child care.

This legislation would completely preempt these State laws, leaving babies and children unprotected. That is a major step backward. Instead, families will be faced with health insurance that doesn't cover routine care for children. They might be forced to pay out of pocket, drastically driving up health care costs, or to forego care entirely. My amendment would ensure that those State laws not be preempted by this Federal mandate that we are about to adopt.

I will also offer an amendment that would prevent health insurers from deciding how much to charge a person for health insurance based on how healthy they are. That is something we have done across the country in State after State.

Many States, including my own, have laws preventing the insurance industry from charging more based on health status. Unfortunately, this legislation would remove those State protections. It would allow the insurance industry to charge more based on health status. We ought to make sure we don't allow that to occur in this bill.

Without these protections in place, it just makes good business sense for an insurance company to increase premiums for people with diabetes, HIV/AIDS, cancer survivors, pregnant women, or anybody with health needs that are outside of the ordinary. As a result, the people who need insurance the most will find they would be the first to lose it.

Finally, I will offer an amendment to protect those patients that admirably choose to participate in clinical trials from undue costs resulting from their routine care. Currently, 19 States, including my own State of Connecticut, have enacted mandates requiring insurers to provide coverage for routine patient care costs while those patients are participating in potentially lifesaving clinical trials. But this legislation, as crafted, would completely preempt these State laws, leaving patients without needed coverage for items such as blood work and physician visits. And this legislation would preempt States like mine that provide benefits for people who are willing to become part of a clinical trial.

Clinical trials save lives. Just 50 years ago, less than one in four women with breast cancer survived for 5 years or more. Compare that to today when 96 percent of women with localized breast cancer reach the 5-year mark. This legislation would create a powerful disincentive to patients weighing the option of whether to participate in a clinical trial. Tragically, we know that only 3 percent of adults suffering from cancer participate in clinical trials. Compare this to the 60 percent of children with cancer that enroll in a trial.

Mr. President, there are a number of amendments we would offer to try to improve this piece of legislation. While I respect the intent of the authors, the bottom line is that it would do great damage to the gains that have been made in State after State across the country, by controlling the costs of premiums and seeing to it that benefits are offered to people out there. The States made these decisions, and the insurance industry, if they want to do business in their States, should comply.

This legislation would mean that the Federal Government would wipe out protection in State after State that has provided for the protection of its people—listen to your Governors, your attorneys general, your health commissioners, insurance commissioners; listen to the groups out there that pay attention to this kind of legislation. Listen to the business groups that have warned what this would do to smaller businesses across the country.



Mr. President, I hope that when the appropriate time comes, we will either adopt amendments that will improve the bill substantially or, more important, adopt the substitute that will be offered by Senator LINCOLN of Arkansas and Senator DURBIN, which would allow people to have the same kind of benefits each and every one of us have as Members of Congress, as part of a Federal health benefit program here that allows for the pooling of people, that would cover 100 employees or less, far beyond what this bill would cover with 50 or less. It would not mandate that benefits provided by States be eliminated, and it would not preempt the States from setting caps on premiums when it comes to older and sicker workers. That is the way to go.

If you really want to make a difference, why don't we adopt this alternative. That would be a major gain for smaller businesses and people who work with them. I understand this is an important issue. Small businesses could use help, but we are not helping them with this bill, with all due respect. We can help them if we take the right steps.

I urge my colleagues to adopt the alternative, or at least improve the bill with the amendments we will be offering in the next few days.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as I understand it, we are rotating back and forth. Could the Chair tell us how much time we have on this side?

The PRESIDING OFFICER. Nine minutes remain.

Mr. KENNEDY. Well, Mr. President, I thank my friend from Connecticut for an excellent presentation and summation of the principal concerns about this legislation. I ask the Chair to let me know when there is 1 minute remaining.

The PRESIDING OFFICER. The Chair will do so.

Mr. KENNEDY. Mr. President, I thank the chairman of our committee, Senator ENZI, for his diligence in the development of the legislation. It is legislation that I cannot support. But the chairman of our committee has put his finger on an area of health policy, which is enormously important for us to consider, and that is the general kind of challenge that is out there for small businesses in this country. By and large, they pay two or three times higher premiums than many of the very large businesses in their States, and they are also seeing a turmoil in the market.

More often than not, they are changing companies every year, or every other year, and increasing numbers of those small businesses have to drop coverage. This is a real problem.

If the proposal that is before us, the Enzi bill, was only to deal with that particular issue, it ought to be given focus and attention and full debate and support. But his bill goes far beyond

that. Fortunately, we have an alternative, as the closing remarks of my friend and colleague from Connecticut pointed out, in the Durbin and Lincoln legislation, which addresses the small business needs. It does it creatively and effectively, and it does it without threatening the health protections that are there for States. The message and word ought to go out to all those who support the Durbin-Lincoln proposal that workers in those small businesses will effectively have the same kind of health care coverage that we have in the Senate of the United States. That has been certainly a goal of mine for all Americans in the time I have been in the Senate, and it still is.

We have an opportunity for the small business community, and for the workers in those companies of 100 or less, to provide for them the same things that we have for the Members of the U.S. Congress and Senate. That statement cannot be made by the Senator from Wyoming. His bill does not do that. It has all kinds of adverse impacts in terms of workers and health care protections.

So as we start this debate, we ought to recognize that there is an alternative which we on this side strongly support which will focus and give attention to the small business community. The other proposal by Senator ENZI does not do that.

Mr. President, I am going to take a few minutes, because that is all I have, to review what I think are the most dangerous aspects of this legislation. The fact is, today, as has been pointed out, there are some 85 million Americans who have protections that will be effectively lost with the Enzi proposal. Those are protections for screening on cancer, for help and assistance in terms of diabetes, for medicines. There are different protections that are given to other diseases that are threatened, and it threatens American families. Those have been discussed in local communities and in States that are now providing those protections; and effectively, under the Enzi bill, those will be prohibited. There are a number of groups.

First of all, this is what the State insurance commissioners say, and why they are important is because they have a responsibility in terms of protecting consumers. This is what they have pointed out, Mr. President:

Standardizing the rating laws among States will do little or nothing to reduce health insurance costs.

And also:

S. 1955 will result in older and less healthy employees being priced out of the market as a result of expanding the rate bands.

Small New Jersey employers with older and sicker employees would see a dramatic rise and increase under the Federal approach, effectively driving them from the insurance market and leaving them vulnerable citizens without adequate health coverage.

They are talking about ratings. Insurance companies are going to be able to charge for the proposal that the

Senator from Wyoming has talked about. They are going to have a flexibility of up to 26 percent difference—26 times the difference in terms of premiums. Do you understand that? If you are an older worker and have had sickness in your family, you will pay a rating that will be up through the roof.

That is not true in Massachusetts. In Massachusetts, no matter how sick or young you are, you are still within a 3-point or 3 times rating increase. That has worked very effectively. That is something that every older worker, every family that has had some kind of health challenges ought to recognize—that they, under the Enzi bill, could well be priced out of the market.

This is what the attorneys general have said:

The Health Insurance Marketplace Modernization And Affordability Act should be more appropriately labeled the Health Insurance Cost Escalation Act.

That was the attorney general from Minnesota.

The attorney general of New York said:

This legislation is not the answer here. It eliminates many of the protections that consumers enjoy, without addressing the underlying problem of cost containment.

They are also eliminating protections, as we have mentioned, for breast cancer and diabetes.

Another one by the attorneys general:

There are no legitimate grounds for exempting the type of insurance plan for State laws that provide essential safeguards for persons covered by insurance.

It is not just Democrats, but Democrats and Republicans; 41 out of the 50 attorneys general charged with protecting consumers are saying this bill doesn't get it.

Mr. President, this is very interesting by the New Hampshire Governor on S. 1955:

In 2003, New Hampshire passed a law establishing rating rules similar to those contemplated under S. 1955.

New Hampshire passed almost the identical bill that is now being considered in the Senate.

With the rules allowing insurance companies to discriminate against businesses with sick workers, or based on geography, this law sent small business health insurance costs skyrocketing across New Hampshire. Small business could not grow, could not hire new workers, and some considered ending their health insurance plans altogether.

They have done it. It is rare around here when you have a new proposal that you have had experience with—and the State of New Hampshire has it—and they ended up withdrawing that proposal.

Finally, we have the various patient groups. Here is the American Diabetes Association:

S. 1955 would result in millions of Americans with diabetes losing their guarantee of diabetes coverage.

The Cancer Society said:

Passage of this legislation would represent a retreat in this Nation's commitment to defeat cancer.



The National Partnership for Women and Families said:

Instead of making health care more affordable for those who need it most, S. 1955 would roll back the reforms adopted by many States to require fair pricing.

We look forward on this side to debating these issues—the Durbin-Lincoln proposal and the Enzi proposal—and we also look forward to debating stem cell research, the real Medicare alternative in the prescription drug debate, the ability of Medicare to be able to negotiate lower prices for our senior citizens, and drug importation. If we are going to have a health care debate, let's make sure we are going to deal with many of the issues that people in our country want us to deal with.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ENZI. Mr. President, as we wait on a couple of people to speak, I would like to make a few comments on the comments that have been made. I do appreciate the spirit in which they have been made. I know there are amendments waiting to modify several of the things that have been suggested, but my biggest concern is that there were some comments about the Attorneys General of the United States and the insurance commissioners who are against it, and even the Connecticut business associations who are apparently saying they are against the bill.

But what I need to correct is the comments they are making are not on this bill. What they are talking about is the bill that the House has passed eight separate times: the associated health plans bill. Associated health plans are different than this bill. It would be nice if some of the people who are going national and public on this would actually check with us on some of their comments to see if they are remotely right.

We have put forward a solution which they said that 85 million people would lose their benefits from. That would be just as ridiculous as me saying that all 27 million people who are uninsured who work for small business would be covered by this bill. Neither of those things is going to happen. There is a medium in there where there will be more people who are insured. The difficult parts that were talked about concerning things being taken away from people I am confident are not going to happen. There are a couple of reasons they are not going to happen.

First of all, there are experiments across the country which in a small way have done what we are talking about in the small business health plans, and in those experiments, they have worked: Taking away the mandates that States have and actually making a point of mandating that we take away the mandates. Around here, "mandates" is a bad word. Mandates means you are forcing somebody to do something and you are not paying for it. You are saying you have to have this, and whether you can afford it or

not, we are going to make you do it. So your choice is to take the mandate or drop your insurance.

When we are talking about these mandates, a lot of them we are talking about are regular maintenance of your body, and we ought to be having everybody do those. It shouldn't matter whether they are covered by insurance or otherwise. In fact, in Wyoming, we have gone to great lengths to have more things done by public health for free. That means your insurance doesn't have to pay for it and you don't have to pay your insurance company for it and you don't have to pay your insurance company for the administration of that service. But you can get that service. Then we have some other screenings that are covered in a very reasonable way. We have a program in Wyoming trying to get everybody to have mammograms, and it is focused on Mother's Day, which is coming up this next weekend: Get a mammography for your mom. Show that you care. And thousands of people in Wyoming do exactly that.

I will cover some of the other issues, but I see that Senator HATCH, the Senator from Utah, has arrived and has some comments in this regard, and he has been a very diligent worker on all of the small business problems. So I yield time to the Senator from Utah.

Mr. HATCH. Mr. President, I thank my distinguished chairman who I think has done a terrific job on this bill. I understand the distinguished Senator from New Hampshire needs about 3 minutes, so I ask unanimous consent that he be given 3 minutes, and then the time be returned to me.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. SUNUNU. Mr. President, I wish to speak to the legislation before us and in particular to address some of the remarks that were made earlier by Senator KENNEDY from Massachusetts. He raised concerns about the State of New Hampshire and suggested that this legislation would be bad for the State of New Hampshire and that the State of New Hampshire had already enacted legislation identical to this. I think it is wrong for someone to provide information that is not entirely accurate. I think that is inaccurate, and it is not inaccurate in some very key areas.

First, the bands that were discussed that were enacted in the State of New Hampshire were much smaller than the rating bands contemplated in this legislation, and they did it in New Hampshire without any transition period. Those are two very significant, specific differences between this legislation and what was attempted in New Hampshire.

Second, as with any legislation, it cuts both ways. There were some employers that saw increases in their premiums 2 and 3 years ago that some claimed were a result of the legislation in New Hampshire, but many businesses—in fact, the NFIB would sug-

gest the majority of businesses—in New Hampshire saw some great relief because they are the smaller businesses that we are talking about, those who would be allowed to improve their negotiating position through the provisions in this bill. Moreover, this isn't a debate about one State. This is a debate about providing increased access—increased access—to plans that are negotiated by associations, by the members of small businesses and, as a result, negotiating lower prices.

Finally, there was discussion about community rating and how objectionable it is that there will be an ability to differentiate on price based on a number of factors. I think the truth is, when you force that kind of price control, you force adverse selection because if I tell you that you have to charge the exact same price to anyone, no matter what region, circumstance, or situation, then the insurer will automatically market to the healthiest people because they won't want to take on the additional costs associated with those who might have significant needs that result in higher prices.

So if you go to price control, which is exactly what the other side is suggesting, forcing the same price for everyone no matter who is covered, businesses will naturally—naturally—only market to those who are healthy and, as a result, reduce the accessibility and availability of health insurance to those who might need it most.

It is a dramatic, unintended consequence, and that is the exact outcome that will be the result of the policies that are being suggested by the other side. We need to be accurate in what we represent. This is a good bill for small business and, as a result, it is an excellent bill for New Hampshire because in New Hampshire, small businesses make up over 95% of all firm with employees. If we want to do something about the uninsured, the majority of whom are working as self-employed or for small businesses, we need to take up the exact kind of provisions that are in this bill: Increased access of health insurance for those working in the smallest firms.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). Senator HATCH is recognized.

Mr. HATCH. Mr. President, I rise in support of S. 1955, the Health Insurance Marketplace Modernization and Affordability Act. This is a good bill, with good intentions. The lack of health insurance, particularly for employees of small businesses, is a significant problem in Utah and throughout the Nation.

We cannot afford to sit by the sidelines and bemoan this problem, taking little action while millions of American families suffer. The House of Representatives has acted and we should do the same.

Immediately upon its passage though, we were besieged by complaints about House legislation, principal among them the complaint that it overrides State insurance law.

I give the Health, Education, Labor and Pensions Committee Chairman MIKE ENZI a lot of credit.

Chairman ENZI didn't sit idly by.

He studied the House bill, he held extensive hearings, and then he drafted a compromise that resolved many of the concerns expressed about the House bill. This was no easy job.

Immediately, the HELP Committee effort—a solid effort I might add—was besieged by criticism. Much of this criticism I must hasten to add, is not valid.

"It isn't going to cover cancer care," the naysayers decry.

"It isn't going to cover diabetics and their supplies," they allege.

"It isn't going to cover prenatal care or OB/GYN care for women," is a recent complaint.

"It is going to run chiropractors, podiatrists and optometrists out of business," say hundreds of form letters that have flooded our offices.

The problem is, these complaints aren't even true. While the standard plan employees must be offered under this bill may not cover all those things, S. 1955 clearly provides an alternative. Employees must be offered an enhanced plan, based on the coverage that public employees receive in the five most populous States, if their employer's standard plan is not consistent with State law.

Most, if not all, of these services would be included in those enhanced plans that employers must offer under S. 1955.

But, let's talk about our basic goal here.

We want to provide affordable health insurance coverage to those who currently do not have coverage.

If we could afford to give them coverage for every possible illness, condition, or procedure, if small businesses could afford to give them coverage for every possible illness, condition or procedure, don't you think it would have been done by now?

Of course it would.

That is the genius of the Enzi bill. It allows a basic level of coverage—perhaps not every single service imaginable, but good solid health care insurance—and for those who want to pay more, there is a plan with more coverage.

In that way, the millions of Americans without health insurance will have access to coverage.

You may ask yourself, "Who doesn't have health insurance coverage?"

Today, over 45 million Americans do not have health insurance.

Over 25 percent of self-employed individuals are uninsured.

Over 30 percent of people who work for small businesses with fewer than 25 employees are uninsured.

Over 20 percent of the people who work for small businesses with fewer than 100 employees are uninsured.

Something clearly needs to be done.

And that's why we are here, today, debating S. 1955.

I want to illustrate why passage of this legislation is necessary.

Ramona Rudert and her husband, Michael, have owned Professional Automotive Equipment in North Salt Lake for 28 years. They have 12 employees and they offer health insurance to them.

The Ruderts contribute \$200 per month to their employees' health care premiums.

Their employees have to pay approximately \$500 per month for family coverage.

Their health insurance plan has a \$1000 deductible.

So at least there is potential coverage. But here's the kicker: only one of Professional Automotive Equipment's 12 employees decided to be covered by their company's health policy, besides the Rudert family. The rest of their employees cannot afford it.

The interesting twist about this story is that Ramona and Michael have a daughter with juvenile diabetes. They recognize that the basic plan may not cover all the services their daughter needs.

But when asked why she supports S. 1955, Mrs. Rudert replied that she is "always looking for ways to improve her employees' access to health care" and that while she has a daughter with Type 1 diabetes, her greatest concern is about the affordability of insurance premiums for her employees."

Passage of this bill is the top priority for Mr. and Mrs. Rudert, and thousands of Utah businesses. They recognize that affordability is a key component to making that happen.

Let us not make perfect the enemy of the good.

It is an economic fact of life that a Federal requirement for small businesses to cover every small business employee for every possible health care-related service is neither appropriate nor affordable.

Those who decry this bill because it does not guarantee small business employees a comprehensive plan, must be reminded that most employees of small businesses do not have a choice today, if they are fortunate to have health insurance coverage. The legislation before the Senate will create new options for small businesses and, the potential for more choices.

Today, smaller employers do not have the purchasing power of larger employers. If they offer different types of health plans to their employees, the administrative costs of offering these choices are much higher for small employers.

But by leveraging their combined purchasing power, some local small business associations are offering plans that give employers more choice. I believe that similar models could be created regionally and nationally through S. 1955 through regional and national associations.

The goals of S. 1955 are simple. We want to create more affordable health insurance options through choice and competition.

And we want to end the decades-long deadlock and give real relief to America's small businesses and working families.

Who can argue with that?

And small businesses support the freedom to band together across state lines, even without self-funding. Insurance companies support the creation of a level playing field with Small Business Health Plans.

Most important, according to a Mercer study released on March 7, 2006, it is predicted that costs will go down 12 percent for small employers and coverage of the working uninsured will go up 8 percent, approximately 1 million more working Americans.

An added benefit is that the Congressional Budget Office, CBO, believes that passage of S. 1955 will reduce net spending in the Medicaid Program. This is due to the enrollment in employer-sponsored insurance plans of people, who under current law, would be covered by Medicaid.

CBO estimates that enacting S. 1955 would reduce direct spending for the Federal share of Medicaid expenditures by \$235 million over the 2007–2011 period and \$790 million over the 2007–2016 period. In addition, the bill would result in estimated Medicaid savings to States totaling \$180 million over the 2007–2011 period and \$600 million over the 2007–2016 period.

CBO estimates that by 2011, approximately 600,000 more people would have health insurance coverage. The majority of these newly covered individuals would be employees of small companies and their dependents.

S. 1955 has been endorsed by a host of organizations: The Small-Business Health Plan Coalition; the National Association of Realtors; the Chamber of Commerce, the National Federation of Independent Business; the National Restaurant Association; the National Association of Manufacturers; the Associated Builders and Contractors; the National Association of Home Builders; the National Retail Federation; the Association Healthcare Coalition; the Textile Rental Services Association of America; the Motor & Equipment Manufacturers Association; the Precision Metalforming Association; the American Council of Engineering Council; Women Impacting Public Policy; National Association of Wholesaler-Distributors; Wendy's International which includes Tim Hortons, Wendy's, Baja Fresh and Cafe Express; Candant Corporation; American Institute of Architects; Federation of American Hospitals; National Funeral Directors Association; HR Policy Association; Motor & Equipment Manufacturers Association; and the Society of American Florists.

Mr. President, that is an impressive list of supporters.

And I believe that the main reason that we have such an impressive list is due to the leadership of the Chairman MIKE ENZI.

He and his staff did something that the Senate has not been able to do for

over a decade report small business health legislation out of the Senate HELP Committee.

For months, Chairman ENZI spearheaded meetings with the major stakeholders of this legislation the insurance companies, the small business groups, and the insurance commissioners. These meetings produced the bill that we are considering today.

Again, my colleagues may ask themselves, is this bill really needed? Will it truly make a difference?

Just last week a 42-year-old woman from Provo, Utah called my office. Both she and her 9-year-old daughter are diabetics. And she had heard from the American Diabetes Association that S. 1955 would hurt their health coverage.

But as my staff explained the bill's important role in allowing small businesses to provide insurance for their employees, including diabetics, she became very emotional. She recalled how, several years ago, she had her own small business. And buying health care for her employees was forcing her toward bankruptcy. So my constituent had to take away their health insurance. This was extremely difficult for her because she herself had a chronic illness and fully understood the implications. She ended up with an individual health insurance policy. And she found that for the same insurance coverage that she had had in her group insurance policy, she had to pay nearly twice as much.

This happened for two reasons. First, as an individual, she was not eligible for the tax benefit that supports the cost of insurance paid through employers. And, second—because she had diabetes, a chronic illness, her insurance rating caused her to pay significantly more than someone without that disease. There was no risk pool for her to join.

Passage of S. 1955 could have prevented these problems.

I urge my colleagues to think about the health care needs of small business employees in their states before voting on this legislation. This legislation will improve their health care options. Today, they rarely have options when it comes to health insurance and when they do, it is extremely expensive.

Let me conclude by sharing the sentiments of Chris Kyler, the CEO of the Utah Association of Realtors.

Small business owners in Utah are facing a growing crisis with health care availability and affordability. Our profession represents 17% of Utah's gross state product and yet we're arguably the most uninsured working segment in our state simply because we're small business people. As productive contributors to the economy, as a younger, healthier populous, we're supportive of S. 1955 because it will provide us with the opportunity to purchase affordable health insurance.

I believe that Mr. Kyler's sentiments sum up why the Senate needs to pass this legislation as soon as possible. I urge my colleagues to support this legislation so that employees of small

business will have access to affordable health care.

I yield the floor.

Mr. ENZI. Mr. President, I yield the remainder of the time to the Senator from Maine.

The PRESIDING OFFICER (Mr. BURR). The Senator from Maine.

Ms. SNOWE. Mr. President, how much time will that be?

The PRESIDING OFFICER. The majority has 9 minutes remaining.

Ms. SNOWE. Mr. President, I thank Chairman ENZI for yielding the time as well as for his leadership in bringing this legislation to the floor, legislation that is so critical and vital to the future well-being of small businesses, I know in my State and across America.

As chair of the Small Business Committee, I know firsthand that this crisis is real. It is an undue burden on entrepreneurs throughout this country, and it certainly didn't develop overnight. Now we have a solution at hand, if we are all willing to forge the consensus necessary to make it happen.

This issue is all the more critical when you consider the fact that today nearly 46 million Americans are uninsured. That is an increase of over 4 million people since 2001. According to the Employee Benefit Research Institute, of the working uninsured, who make up 83 percent of our Nation's uninsured population, 60.6 percent either work for small business with fewer than 100 employees or are self-employed.

There should be no doubt or question that the time has long since come to pass this legislation that will at once assist our small businesses in accessing affordable health insurance for their employees and their families while assuring more of those employees can actually have health insurance.

For this past decade, health insurance premiums have exploded at double-digit percentage levels and far outpaced inflation and wage gains, and Congress has failed to act. Study after study has confirmed beyond a doubt that fewer and fewer small businesses are able to offer health insurance to their employees. Little has been done to alleviate the problem. Quite simply, it has been an abrogation of responsibility.

As chair of the Senate Committee on Small Business and Entrepreneurship, I have held hearings on this question. Small business owners in Maine and across America have consistently and repeatedly begged Congress for relief. They need competition in the market. They need to be able to offer this to their own employees and their families.

That is why I originally introduced the Small Business Health Fairness Act which would have allowed the creation of association health plans to offer uniform health plans across the country, allowing small businesses to leverage their purchasing power on a national basis. This week, for the first time, thanks to the leadership of Chairman ENZI in bringing this legisla-

tion to the floor from his committee, the full Senate will be trying to resolve many of the issues, many of the differences of positions and perspectives everybody has on this question.

I thank the majority leader for making this legislation the key component of Health Week in the Senate.

I also thank my friends on both sides of the political aisle, Senator BYRD, who has cosponsored my initiative originally, Senator TALENT, who initiated this effort when he was chair of the Small Business Committee in the House, and the same is true for my predecessor, Senator BOND, when he was chair of the Small Business Committee, for helping to move this issue to the pivotal point where we are today.

I also thank Senator KERRY as ranking member of the Small Business Committee because we also modified my original bill, worked on another consensus bill that would have been a modification based on regional association health plans. I thank him for his effort. Again, that was another attempt to bridge these efforts across the aisle.

But I most especially recognize Senator ENZI's work and his commitment in moving this bill, holding the hearings, trying to reconcile the differences.

This week is not about engaging in heated partisan debate to create issues for the upcoming election. What this should be all about is providing solutions to small businesses and America's uninsured for the much needed relief they certainly deserve.

We are trying to do everything we can to resolve some of the issues. I know there are some concerns, as there were with my initial legislation and as there is with Chairman ENZI's bill now before the Senate. A couple of those issues are, of course, preemption of mandated benefits. I hope to be able to address that question with an amendment so, hopefully, we can reconcile some of the differences across party lines, across philosophical perspectives, so we can get the job done.

There are some concerns about the changes in community ratings. I know that is a particular issue for my State as well. I understand the chairman will address that issue in his managers' amendment.

What we are all here about today is what can we do to address the underlying concern that small businesses have across America. This is a summary of their foremost concern—increasing health insurance costs for themselves and for their employees and their families to the point, as I think we all recognize, small businesses are unable to offer this crucial benefit at a time when they need to be competitive with larger companies because they cannot afford, they simply cannot afford to provide health insurance.

If they can afford it, it is catastrophic coverage, it is a \$5,000 or \$10,000 or \$15,000 deductible at best that

they are able to offer. That is why I introduced the initial association health plans, to give fairness to the market, especially to the small group markets such as the State of Maine. The State of Maine is a small group market and, guess what, there is no competition. No competition means higher prices. Higher prices means virtually no health insurance.

That is why I offered the association health plan. That is why Chairman ENZI is doing what he is doing here today, to try to bridge the differences so we can move and advance this process forward because it is good for all of America.

Small business is the engine that is driving the economy. Two-thirds of the job growth occurring in America today is emanating from small businesses. So it is important to ensure their well-being.

By offering the mechanisms that are proposed in Chairman ENZI's legislation, the small business health insurance plan will help with uniformity as well. Because 50 States have 50 sets of administrative rules, regulations, and mandates, it is virtually impossible to have a uniform standard nationwide. This will allow small businesses to be basically on par with Fortune 500 companies and unions. After all, no one is ever complaining about Fortune 500 companies and unions' plans. In fact, they are the most generous in America. So if they are good for Fortune 500 companies, if they are good for unions, why can't they be good for small businesses? That is what it is all about.

Now people say these associations will not design good plans. If you want to attract members to the plan, if you want people to join your plan, obviously you are going to ensure that you design these plans which will be the most attractive to the greatest number of people who join up in these associations. After all, it is in the interests of small businesses to have attractive plans for their employees because they have to compete with large employers to get good employees, to get skilled employees. If they don't have this crucial and vital benefit, they do not attract the kind of employees they need to make their business successful. That is what it is all about.

I hope we can reconcile our differences through the amendment process, with what I hope to offer as amendments and what others will offer, that can lead us to our goal of addressing the fundamental question for small businesses in America that ultimately will help mitigate the problem of the uninsured that is ever growing in America as well.

As we engage in this debate this week, in the end I hope we can come to a conclusion with a reasonable compromise that will become law. That is what it is all about. I know people have differences of opinion. But I don't think there ought to be a difference of opinion in the final analysis when we address all the issues—the ones that

Chairman ENZI addressed to bridge the gap, the ones that my amendment will do, and others might do—which will ultimately get us to the point of beginning to resolve this crisis.

The fact remains that we are seeing fewer and fewer small employers that are providing health insurance for their employees.

If you look at this chart, only 47 percent of the smallest businesses in America—those with three to nine workers—offer health insurance. It is on a declining trend—down to 52 percent, and down to 58 percent in 2002—in sharp contrast to the 98 percent of larger businesses with 200 or more workers that are offering health insurance as a benefit.

For small businesses, things are trending in the wrong direction. Then you look at the small group marketplaces in States such as Maine, which is what this essentially is all about. As we learned from the Government Accountability Office study that Senator TALENT and I requested, Blue Cross-Blue Shield is actually consolidating their market share in a number of States across the country. In fact, 44 percent are in group markets.

I hope we can begin to reconcile these differences and do what I think this Congress can do for the first time that we have had the opportunity to do. Let us not deny small businesses and their employees this one chance to do it. Time has long since passed for action.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before she leaves the floor, I want to express my thanks to the distinguished Senator from Maine for working so closely with me on health care issues. I expect that before long Senator SNOWE and I will be offering our bipartisan amendment to lift the restriction on Medicare that bars Medicare from bargaining to hold down health care costs. Senator SNOWE and I have worked on this for over 3 years. We recently got 54 votes in the Senate to win passage of this bipartisan effort. I thank her for all the good work she is doing in the health care field and look forward to when she offers our bipartisan amendment before too long and to prosecuting this cause on behalf of senior citizens and taxpayers alike.

Mr. President and colleagues, no other health policy in America is more objectionable to the people of this country than preventing Medicare from bargaining to hold down health care costs.

This restriction that bars Medicare from bargaining to hold down health costs simply defies common sense. The restriction that bars Medicare from bargaining to hold down health costs is contrary to what goes on in the private sector of this country every single day. It certainly is contrary to the needs of this program and the taxpayers of this country when we see the Federal budget deficit exploding every time we turn around.

It seems to me that to have Medicare actually barred from bargaining to hold down prescription costs simply defies the sensible approaches that we have always taken in holding down health costs. That approach is to use your bargaining power and the capacity to argue on behalf of large numbers of people. That is using marketplace forces to really make a difference.

The way Medicare is buying prescription drugs under this program is like somebody going to Costco and buying toilet paper one roll at a time. Nobody would ever go shopping that way. Certainly when steel companies, auto companies, any major manufacturing concerns first sit down with a vendor, they ask: What kind of deal will you give me on the basis of the large volume of this product that I am going to be purchasing? Not Medicare. Medicare won't do what everyone else does all across this country every single day.

It is especially important that Medicare use this bargaining power, given what the American Association of Retired Persons has found recently in a report they released to us on the cost of prescription drugs. The AARP released a report in February of 2006 that found brand name medications most commonly used by older people rose almost twice the rate of inflation in other areas of health care.

So here is a chance to actually save money for senior citizens and taxpayers. We can especially expect to see savings when you have single-source drugs for which there is absolutely no competition. There are concrete cases where the Federal Government says we are not going to allow price controls, we are not going to allow the establishment of a one-size-fits-all formulary, but we are going to say that the Government is going to be able to bargain, and that approach will make a real difference.

I know some colleagues think any effort by the Government to allow bargaining to hold down the cost of medicine will lead to price controls. The amendment which Senator SNOWE and I expect to file before long is very clear. It does not permit price setting or the creation of a formulary. All it says is the Federal Government, and in effect the seniors of this country, would be able to go into the market and use their clout just like any other big purchaser could to hold down the cost of medicine using marketplace forces.

As colleagues consider this particular approach I hope—I know the distinguished President of the Senate has a great interest in pharmaceuticals and prescription drugs—that colleagues will look at what Senator SNOWE and I advocate. In that amendment, on page 3, lines 2 through 8 make it clear that we are opposed to price controls. We have continually tried to address this. We are not in favor of price controls. We are not in favor of establishing a one-size-fits-all formulary or instituting a uniform price structure of any kind. All we are saying is that the Federal Government ought to have a

chance to do some hard-nosed bargaining the way everybody else does to hold down the cost of prescription drugs.

Secretary Tommy Thompson, former Secretary of Health and Human Services, said that the one power he wanted as he left office and was denied by the Congress was the opportunity to negotiate when necessary to hold down the cost of prescription drugs.

This amendment would ensure that the prescription drug benefit is sustainable without interfering with marketplace forces and would simply say that the Federal Government could leverage the marketplace just as any other big buyer of a product does.

To date, millions of seniors have enrolled in this program and, of course, they are realizing some savings on their prescription drugs. We are glad to see that, but it has come about primarily through the infusion of taxpayer money.

What I and Senator SNOWE would like to do is bring about some savings—not just by pouring more and more taxpayer money into this program but by using marketplace forces to protect the interests of seniors and our taxpayers.

Prohibiting Medicare from negotiating for drug prices was an overreach. I know of no other industry in the United States that has power like this. We don't see any other industry that does business with the Federal Government in which discussions and negotiations with the Federal Government is specifically barred. Everybody else has to sit down across the table from the Government representing the interests of our taxpayers and get into the nuts and bolts of negotiating the best deal for a particular group of Americans. We need to end this special treatment, this favoritism, this unwarranted preference that only the prescription drug industry has and give our Government the bargaining power that is needed so that seniors and taxpayers can be protected through marketplace forces.

Some who are opposed to what Senator SNOWE and I want to do have said that we are already seeing some negotiations. Of course, that is true. Having voted for this program and wanting to see it work—I have welts on my back to show for that—I am pleased that we are seeing some discussion among health plans and others. But I think we will see a whole lot more opportunity to contain costs and contain them through marketplace forces if we untie the hands of the Secretary, as the previous Secretary of Health and Human Services, Tommy Thompson, sought to do. I believe we ought to take every possible step to save every possible nickel to protect seniors and taxpayers, and lifting this absurd restriction on Medicare bargaining power will do just that.

I cannot for the life of me conceive of a rational reason Medicare should not have the same power to negotiate just the way other smart shoppers do across this country. Every smart shopper in

the private sector—every single one—wants the kind of opportunity that I and Senator SNOWE are advocating.

I don't know of any private entity, whether it is a timber company in my home State or a big auto company or anybody else who doesn't sit down across the bargaining table and ask, what are we going to do to work something out that reflects the fact that I am going to be buying a lot of something? Why shouldn't Medicare, if it believes it is warranted, have that authority in effect as a standby?

Senator SNOWE and I have been crystal clear in saying that there is a difference between negotiating and bargaining and price controls and uniform formularies. We would say to our colleagues: Look at our proposal just as we did in the one that received 54 votes recently. We spell it out. We lay it out on page 3 of our amendment, lines 2 through 8. We stipulate no price controls, no uniform formulary, no particular kind of one-size-fits-all price structure in any way.

I would like to, along with Senator SNOWE, offer a market-based, comprehensive cost containment to help hold down the cost of prescription drugs in our country.

I am glad we are discussing Medicare this week. I think it is high time. I tell colleagues that no other health policy in America is more objectionable than the one that prevents Medicare from bargaining to hold down health care costs. It is time to inject some common sense into the Medicare drug benefit. Giving Medicare bargaining power to millions of senior citizens through Medicare is economics 101. If it is important to the seniors of this country, it is important to taxpayers.

We expect to bring a bipartisan proposal to the floor of the Senate this week. We all know we could sure use some bipartisanship around here at this critical time. I hope colleagues will, as they did a few weeks ago, show strong bipartisan support for our proposal. If we are serious about reining in health costs, and the American people say it is at the top of their agenda, you have to lift this restriction that bars Medicare from bargaining. We expect to be filing the bipartisan Snowe-Wyden amendment before long.

We hope, as we did on the last occasion when we voted on this, we will have a strong majority in the Senate in support of a commonsense, practical way to protect senior citizens who are buying prescription drugs and are taxpayers at the same time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I thank my colleague from Oregon for his incredible leadership on something that makes so much sense, negotiating group prices under Medicare.

Why in the world wouldn't we want to get the best price? Taxpayers want us to get the best price. Seniors want us to get the best price. The disabled

want us to get the best price. Why in the world wouldn't we want to do everything possible to have a Medicare prescription drug benefit that offers the very best prices so we can offer as much coverage as possible? One of the things we know, the gap in coverage is partly because we are paying so much for the whole plan. We could give people more coverage and spread it out differently if we were, in fact, negotiating group prices.

I thank my colleague who has come to the Senate floor on so many occasions. He always makes so much sense. I know the people in Oregon are proud of what he has done.

To add to the discussion on Medicare, I am pleased we have Health Week. Even though I will speak at some later time in terms of the concerns I have about the underlying bill, we all chose to vote to proceed to debate on health care because there is nothing more important to the people we represent, whether it is the manufacturers I represent who are having to compete in a global economy and figure how to do that while paying so much of the cost of health care or whether it is small businesses, self-employed people who cannot find coverage at affordable prices, whether it is our seniors or whether it is women and children who need care.

We have a serious issue when we spend twice as much on health care in this country than any other country and still have 46 million people with no insurance, 80 percent of them working.

This is an important debate. Part of that debate, I believe because of the timing, needs to be to address what is happening with Medicare prescription drug coverage. Unfortunately, we are 6 days away from a Medicare prescription drug deadline. Right now, 6 days from now, folks are going to be penalized if they have not signed up for a Medicare prescription drug plan, even though they are having to wade through a lot of information and misinformation in order to be able to figure out what to do, if anything.

I am sure my colleagues have received as many calls as I have received, thousands of calls and letters from people all across Michigan about the trouble they are having related to this Medicare prescription drug program—calls from pharmacists trying to help people figure what to do, spending hours on the phone, being put on hold, unfortunately, receiving inaccurate information too much of the time. We know there are serious issues that have come about because the Government has not gotten its act together, as we should, to be able to present them to people in a way they can understand and make sure it works for seniors and disabled.

We know choosing a plan is extremely challenging and confusing. We have an obligation on our end to do something about that, not wait 6 days and penalize people because they have not signed up for a plan that they may not be able to figure out.

This is not because people are not bright. In Michigan alone there are at least 79 different plans to choose from. Each plan has a different premium, a different copay, covers different medicines. Under the current law, as I indicated before, anyone who does not go through these 79 plans, or whatever number they have in their State, by next Monday will find themselves paying a lifetime penalty, more for prescription drugs than they would if they signed up before then.

A decision about something that is so fundamental to a person's health as their medicine should not be rushed. We should not be scaring seniors into picking a plan that may not work for them because of a penalty they will receive after next Monday. Unfortunately, that is exactly what is happening.

Unfortunately, I continue to believe the "D" in Medicare Part D stands for disaster. That does not mean some people are not getting helped. We want people to be helped. We want people who have not otherwise had help to be able to receive it. That is a very important point in this process because the administration has been talking about the 29.7 million seniors who are now covered, seniors and disabled who now have drug coverage under Part D.

But what they are not saying, of the 29 million, 20 million already had coverage. They were covered under Medicaid, they were covered under private insurance, under a Medicare HMO. We are talking about less than 30 percent of those who have not had any help with their medicine, less than 30 percent, have actually signed up so far.

Is it because they do not want help? Of course not. It is because they are having challenges getting through the bureaucracy and trying to figure out what works for them and what does not work for them?

I will share a story of a woman who called me yesterday. This exemplifies the thousands of calls and stories I receive in Michigan. A member of my staff spoke with Shirley Campbell from Midland, MI, yesterday, not far from my hometown. Shirley told my staff about the experience she and her sister had enrolling in Part D. First, they had a terrible time getting through to the so-called "help" line.

By the way, the Government Accountability Office says almost 60 percent of the time folks trying to get through to the 1-800 Medicare number are getting incomplete or inaccurate information. That is stunning. We have to get our act together before we penalize people for not signing up for a program.

She kept trying. Shirley kept trying. Once she got through, in response to her question, she was told, "I can't answer that question because the site is down." She did not give up. She called back the next week and she called back the following week. Each time she had the same experience. She could not get an answer to her question because "the

site is down." This is the administration's idea of a "help" line? It is not much help.

Because Shirley could not get the information she needed from the administration, she called several plans and asked them all to send her their information. Imagine how big that mailbox was. Then she and her sister sat down and spent more than 10 hours sifting through all the information they had received. They narrowed it down to six plans and began a thorough analysis.

What did they find? From the six plans, all of the plans would cost Shirley more than she is currently paying for the medications necessary for her rheumatoid arthritis. Six plans she narrowed it down to, and all of them would cost her more than what she is currently paying. Shirley currently does not have any coverage. Yet she would end up paying more under any of the six plans she studied.

Think of that. We are trying to help people who do not have coverage, and less than 30 percent of the folks who have signed up have been people who did not have help before. Maybe it is because they were like Shirley, when they tried to find someone to help them, they found out they would be paying even more under this privatized scheme that has been set up than they are currently paying.

She also told my staff that most of the plans would have cost her twice as much as she is now paying. But she ended up choosing a plan that would cost her more than what she is currently paying, even though she currently does not have any coverage. She says she signed up because she was worried about the looming May 15 enrollment deadline and the prospect of paying a penalty for the rest of her life.

What sense does this make? Folks are seeing the clock count, 6 days away, until the May 15 deadline and penalty. And Shirley is so worried about what that means down the road, the cost she would be paying and a lifetime penalty, she signs up for a plan that costs her more than she is currently paying. I don't believe Shirley or any senior should be rushed into a premature decision because of an arbitrarily determined deadline. That is all this is. There is nothing magical about May 15, nothing at all.

Shirley worked in middle management all her life. She had the ability to spend hours and hours wading through the plan, the brochures, the paperwork. In the end, she had to make a decision that leaves her worse off than she is today.

Shirley wrapped up her experience of choosing a Part D plan by saying, "I never in a million years would have done anything like this to my staff."

She then asked my health legislative assistant to deliver the message to me that the Medicare Part D Program needs to be fixed. Amen. I could not agree more with Shirley.

This is Health Week. This is the time to fix it. The first thing we need to do to fix it is to give folks more time.

I am proud to be joining Senator BILL NELSON on legislation to extend the deadline to the end of the year. If given the opportunity, and I hope we will have the opportunity, we intend to offer that as an amendment, as we proceed with Health Week. People should not be penalized because the Government cannot get its act together. People should not be penalized when almost 60 percent of the time when they call a hotline they cannot get the information they need, it is inaccurate or incomplete. That is not their fault.

The whole point of this was to make sure we were helping people who were choosing between food and medicine, people who were choosing between medicine and paying the rent, the electric bill or gas prices right now. If that is not happening, why are we moving full steam ahead with some arbitrary deadline? Six days from now, folks are going to be penalized because the Government has been slow to get its act together, and they will be permanently penalized by paying more.

Less than 30 percent of the people who do not currently get help paying for their medicines have actually signed up. That should say something. It should either say, it is not a good deal, and they found out they would be paying more, and they said forget it or it says to us that maybe we need to go back to the drawing board and make sure the right information, in the right way, is given out to people so they can make the best decision for themselves.

I am also extremely concerned that in my home State of Michigan only 22 percent of the 256,000 seniors eligible for low-income help, only 22 percent of those whom we said we wanted to help the most by waiving the premium and the copay, only 22 percent have signed up to get that extra help.

Unfortunately, our low-income seniors are caught twice because they have to pick a plan. They have to, similar to Shirley, wade through all kinds of plans. Then they have to sign up separately to be able to get low-income help.

I am pleased the administration has said they will allow low-income seniors to be able to sign up after May 15. I appreciate that. That is a good start. Unfortunately, the penalty is not waived. Our lowest income seniors, even though they may be able to sign up in June, July, and August—and that is a good thing and I appreciate the administration doing that—I urge them to waive that penalty. It makes no sense if you allow people to sign up for extra help and then take it away through a penalty for signing up late.

The final issue is our poorest seniors, our lowest income seniors in Michigan and individuals making less than \$14,700 a year, our lowest income seniors or the disabled, in too many instances are actually paying more under this plan than they were before. Why? Because they were on Medicaid before for the low-income health care. In Michigan, that meant paying a \$1



copay for a prescription, and that has doubled, tripled or gone higher. This also makes no sense.

On top of that, those who were in Medicaid, our lowest income seniors, many in nursing homes, were automatically enrolled sometime in the last few months, into a plan, regardless of whether it covered the medicines. We have said to the lowest income seniors, many of them in nursing homes, you are signed up for a plan, and you have to go figure out whether it even helps you and how you are going to get out of it if it doesn't help you. And, by the way, you are going to pay more.

We can do better than this. I believe No. 1 is to stop the 6-day count. No. 1, we have to give folks more time to wade through all of this, to figure out what is going on, and we have to give some more time to the Government to get its act together. The administration is doing a disservice to people by the way this has been handled. Giving more time will allow that to happen.

I am also very hopeful we are going to come back and come together and give people the one choice they really want. People do not want 70 plans. They are not saying: Oh, please, give me a whole bunch of insurance papers to wade through. Give me increased premiums. Give me all kinds of deadlines to deal with. What they said was: I need help with my medicine.

We are blessed in this country to have more medicine available as a part of the way we allow ourselves to live healthier lives, longer lives, to be able to treat cancers, to be able to treat other chronic illnesses. Medicines are available now. But they are not available if they are not affordable. We can do better.

Mr. President, I am hopeful at some point we are going to come back to this floor and give people the choice they want: A real Medicare benefit through Medicare, with a reasonable copay and premium, where you sign up and you can go to your local pharmacy, and Medicare negotiates good prices. That is what we ought to be doing.

In the meantime, let's stop the countdown to May 15.

Thank you, Mr. President.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:32 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

#### HEALTH INSURANCE MARKET-PLACE MODERNIZATION AND AFFORDABILITY ACT OF 2006—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. Under the previous order, the time until 2:30 shall be equally divided.

The Senator from North Carolina.

Mr. BURR. Mr. President, I am going to be here numerous times this week. This legislation is too important to have it shortcut. There is not enough time in the debate to say it all at one time.

Last night, this body had the opportunity to vote on proceeding to changes to the liability crisis that exists in health care today, but the minority denied us the ability to move forward. They denied the ability of the American people to hear an honest debate, to consider thoughtful amendments, and then to judge up or down on the content of the legislation.

They had two opportunities: liability that was reform for all medical professionals; and, then, liability that was only changed for those who are OB/GYNs—that next generation of medical professionals who are going to deliver our grandchildren and our great-grandchildren, that profession that is going to regenerate the population of this country and, in fact, is suffering today because of the high rate of liability costs for the premiums they have to have.

Now we are here. We are in debate—30 hours of debate—to see if we can proceed on a bill to bring small business group health insurance reforms into law, to enable small businesses in America to be able to price insurance for their employees in the same way large corporations are able to produce products for their employees.

Today, small businesses' choice is between nothing and nothing. It is not something and something. It is nothing and nothing. And what will we do? We will debate, for 30 hours, whether we should proceed. Some don't believe this is important enough or, if it is important enough, that there ought to be all sorts of changes to it that are unrelated to these millions of Americans for whom their employer cannot afford to provide health care. Why? Because they are not big. The marketplace discriminates because they are small.

Let me give you some statistics about North Carolina. In North Carolina, 98 percent of firms with employees are small businesses. Ninety-eight percent of my employers are shut out of the ability to negotiate a reasonable cost of health care for their employees. Because of that, their employees have a choice between nothing and nothing.

We will have 30 hours of debate to see if we are going to proceed in this body to provide something versus nothing—not something and something. How can anybody object to providing a choice of something for those who do not have an option today?

Additionally, in North Carolina, we have 1.3 million uninsured individuals. And 898,000—almost 900,000—North Carolinians are uninsured individuals in families or on their own with one full-time worker. Those are all individuals who potentially could be covered under an individual or a family plan.

Of the 1.3 million who are uninsured in North Carolina, 900,000 could be af-

fectured with this one piece of legislation in the Senate. But for the next 30 hours, we will debate whether we proceed or never get to the process of an up-or-down vote; in other words, it is a choice as to whether we keep them with nothing and nothing and the uninsured numbers stay at 1.3 million or, in fact, we are going to provide something for North Carolina—900,000 people who today have nothing provided for them.

Later today, I am going to come to this floor, and I am going to read for my colleagues real letters, handwritten letters—handwritten letters—from people who live in North Carolina, whose choice is nothing and nothing. These are individuals who have the same health needs, individuals who would like to have health insurance but whose employers cannot afford it today, who want the opportunity in employer-based health care, but because of the way the system is designed today, it is not achievable because it is not affordable for them.

We are here today and tomorrow, and we ought to be here as long as it takes to make sure Americans at all levels have choices between something and something. These 30 hours will determine, in fact, whether this historic institution will provide that for the American people or we will walk away; whereby, once again, the American people will be denied because some in this body do not believe there is a responsibility to move to a point where there is an up-or-down vote. Truly, people can look and say: You have my future in your hands. My health security is in the hands of the Senate, the Members of the Senate, and whether they are going to, in fact, respond to that.

Well, I think people in North Carolina desperately want choice. I think they desperately want this bill. They want their employers to have the opportunity to be able to look at health insurance and to find it affordable. Why? Because that is their security. That is their ability to have coverage.

My hope today is that the outcome of this legislation will not be a quick death such as last night with medical liability reform. We all agree health care is too expensive. We disagree on what the solutions are. But to end up with nothing, to deny the ability to move forward, to deny the ability for the American people's voice to be heard through the amendment process on this floor is disgraceful.

My hope is after these 30 hours we will proceed, we will have a robust debate on the amendments, and, at the end of the day, the American people will have an opportunity for an up-or-down vote in the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, today we are here in the middle of what is being called Health Week in the Senate. But rather than debating important lifesaving, life-enhancing